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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/808,029      | 03/24/2004  | Thomas M. Cross      | 86,624-009          | 5665             |

7590

03/09/2006

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EXAMINER

RHODE JR, ROBERT E

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |  |                     |  |
|------------------------------|------------------------|--|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> |  | <b>Applicant(s)</b> |  |
|                              | 10/808,029             |  | CROSS ET AL.        |  |
|                              | <b>Examiner</b>        |  | <b>Art Unit</b>     |  |
|                              | Rob Rhode              |  | 3625                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 26 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4 - 6, 8 - 10, 12, 14, 20, 24 and 27 is/are pending in the application.
- 4a) Of the above claim(s)   1   is/are withdrawn from consideration.
- 5) ☐ Claim(s)        is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 - 6, 8 - 10, 12, 14, 20, 24 and 27 is/are rejected.
- 7) ☐ Claim(s)        is/are objected to.
- 8) ☐ Claim(s)        are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on        is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No.       .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. <u>      </u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>      </u> | 6) <input type="checkbox"/> Other: <u>      </u>   |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant amendment of 11-26-05 amended claims 1, 5, 9, 14, 19 and 20 as well as added new claim 27 and traversed rejections of Claims 1, 2, 4 – 6, 8 – 10, 12, 14, 20 & 24. In addition and as a result of the Interview of 2-16-06 in which it was noted that Claim 27 was not addressed in the last Office Action, the prosecution of the Application has been reopened and new Office Action is attached. The timeframe for responding to the Office Action has been changed and will be from the date of the mailing of this current Office Action.

Currently, Claims 1, 2, 4 – 6, 8 – 10, 12, 14, 20, 24 and 27 are pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 5, 9, 14, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1 for example, the phrase “tradeable financial instrument “ is a relative phrase, which renders the claims indefinite. The phrase “tradeable financial instrument ” is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes the phrase “tradeable financial

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instrument” will be treated as a mortgage of an invoice, which as with home mortgages are traded regularly as a financial instrument.

Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 27 for example, the phrase “wherein the validation engine guarantees the instrument “ is a relative phrase, which renders the claims indefinite. The phrase “tradeable financial instrument ” is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes the phrase “wherein the validation engine guarantees the instrument” will be treated as guaranteeing for buyers to meet PO requirements.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 4 - 6, 8 - 10, 12, 14, 19 – 20, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit (US 4,799,156) in view of Shkedy (US 6,260,024 B1).**

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Regarding claims 1, 5, and 9. 14, 19 and 20, Shavit teaches a method and system for facilitating the financing for receivables by a financial institution resulting from electronic commerce between a buyer and a seller employing a central processing platform, said method comprising: translating seller information relating to a product or service sale from a seller information format into a buyer information format and forwarding the translated information to the buyer [ see at least Abstract and Figure2 and Figure 9 (EDI)]; producing data representative of a receivable of the seller (see at least Col 9, lines 3 - 4); and converting the data into a tradeable financial instrument to be issued by the financial institution for introduction into commerce (see at least Col 32, lines 48 - 59). Please note that EDI and XML are both well-known technologies, which provide the means for translating formats from one entity to another.

While Shavit does disclose billing information and acceptance information, the reference does not specifically disclose and teaches a method and system for a validation engine adapted to validate a transaction by matching billing information associated with the product sale with receipt and acceptance information associated with the commercial transaction, supplied electronically by the buyer to the seller/central processing platform; and performing a credit check and quality check of the buyer's credit by characterizing the likelihood of payment

On the other hand and in the same area of online buying and selling, Shkedy teaches a method and system for a validation engine adapted to validate a transaction by matching billing information associated with the product sale with receipt and acceptance information associated

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with the commercial transaction, supplied electronically by the buyer to the seller/central processing platform; and performing a credit check and quality check of the buyer's credit by characterizing the likelihood of payment (see at least Abstract, Col 5, lines 61 – 67, Col 7, lines 53 - 58 and Figures 1 and 2).

It would have been obvious to one of ordinary skill in the art to provide the method and system of Shavit with a method and system of Shkedy to have enabled a method and system as recited in claim 20. Shavit disclose an online method and system for translating seller information, producing receivable of a seller and converting data into a negotiable instrument. In turn, Shkedy discloses a method and system for validating a transaction (Abstract, Col 5, lines 61 – 67, Col 7, lines 53 - 58 and Figures 1 and 2). Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Shavit with a method and system for validating a transaction by matching billing information associated with the product sale with receipt and acceptance information associated with the commercial transaction, supplied electronically by the buyer to the seller/central processing platform; and performing a credit check and quality check of the buyer's credit by characterizing the likelihood of payment. In this manner, the buyer effort as well as systems requirements will be reduced, which will save the buyer both money and time.

Regarding claim 2 and related claims 6 and 10, Shavit teaches e-mail with the central processing platform.

Regarding claim 4 and related claims 8 and 12, Shavit teaches a system wherein the seller information is directly accessed by the central processing platform from a database of a seller (Col 7, lines 35 - 43).

Regarding claim 21 and related claims 22 and 23, Shkedy teaches a method and system that further includes a reconciliation engine adapted to discriminate and reconcile discrepancies between the billing information and the receipt and acceptance information (Col 7, lines 53 - 58 and Figures 1 and 2).

Claim 24, Shavit teaches a method further comprising obtaining credit, procuring insurance accessing risk, accessing risk of non payment, procuring fraud insurance and becoming payment agent (See at least Abstract and Col 7, lines 6 - 8) Please note that Shavit does not specifically disclose procuring insurance against non-payment, fraud insurance and insurance against not acceptance. Shavit does disclose insurance companies. Moreover a transaction based business that enables trading between buyers and sellers and provides financing for receivables as well invoice's would for good and prudent business reason, procure these forms of insurance in order to preclude undo business risk associated with numerous buyers and sellers. Thereby, it would have been obvious to one of ordinary skill that an online business/exchange as with an off line company would have the appropriate insurance to ensure and protect the business from undo financial burden as normal course of business.

Regarding claim, Shavit teaches a system, wherein the validation engine guarantees the instrument (see at least Col 34, lines 31 - 41).

***Response to Arguments***

Applicant's arguments filed 11/25/06 have been fully considered but they are not persuasive.

Applicant argues that Shavit does provide for the generation of a tradable instrument.

As noted above, Shavit discloses a generation of a financial instrument such as mortgaging of orders or invoices (Col 14, lines 35 – 49).

Applicant argues that Shkedy does not utilize the credit information to produce a tradeable financial instrument.

As noted above, the claim language disclosed by Shkedy was for a method and system for validating a transaction by matching billing information associated with the product sale with receipt and acceptance information associated with the commercial transaction, supplied electronically by the buyer to the seller/central processing platform; and performing a credit check and quality check of the buyer's credit by characterizing the likelihood of payment (see at least Abstract, Col 5, lines 61 – 67, Col 7, lines 53 - 58 and Figures 1 and 2), which did not include a recitation of a "tradeable financial instrument".



***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**571.273.8300** [Official communications; including

After Final communications labeled

"Box AF"]

For general questions the receptionist can be reached at

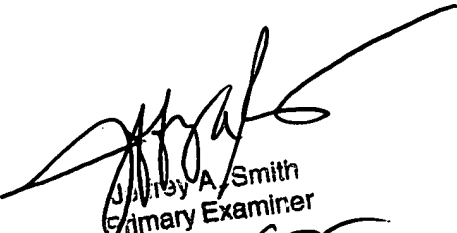
**571.272.3600**

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RER

  
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